UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1999/1146
8 November 1999

ORIGINAL: ENGLISH

LETTER DATED 8 NOVEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF AUSTRALIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Further to my letter dated 13 October 1999 (S/1999/1055), I have the honour to submit for your information and for the information of the Security Council the report of the joint International Force, East Timor (INTERFET) and Indonesian Military Forces (TNI) investigation team established to investigate the incident that took place at Motaain on the border of West and East Timor on 10 October 1999. The report is submitted by Australia in its capacity as lead nation of INTERFET.

I should be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(Signed) Penny WENSLEY
Ambassador
Permanent Representative

99-35078 (E) 191199

/...

Annex

JOINT INVESTIGATION TEAM REPORT INTO THE INCIDENT AT MOTAAIN ON 10 OCTOBER 1999

Abbreviations and acronyms used in the report

AOR	Area of responsibility
APC	Armoured personnel carriers
BRIMOB	Mobile brigade (of the Indonesian National Police)
COMINTERFET	Commander of the International Force, East Timor
COMITFET	Commander of the Indonesian Task Force in East Timor
IDP	Internally displaced persons
INTERFET	International Force, East Timor
ITFET	Indonesian Task Force in East Timor
JIT	Joint Investigation Team
JSCG	Joint Security Consultative Group
KIA	Killed in action
KODIM	District Military Command
MLO	Military Liaison Officer
OFOF	Orders for opening fire
POLRI	Indonesian National Police
RAR	Royal Australian Regiment
ROE	Rules of engagement
Sig	Signaller
SOP	Standard operating procedures
TNI	Indonesian Military Forces
TNI-AD	Indonesian Army
TOR	Terms of reference

UNAMET	United Nations Mission in East Timor
VCP	Vehicle checkpoint
WIA	Wounded in action

References

A. Map: Batugade, 1:25 000, map No. 2407-122/121, ed. 1, 1993 (INTERFET) (see appendix D)

B. Map: Atamboea, 1:100 000, Hind 637, sheet 91-92/XLVI and 91/XLV, first ed., 1946 (Indonesian) (see appendix E)

I. GENERAL

A. Introduction

1. In accordance with the terms of reference (see appendix A), the Joint Investigation Team hereby presents its report into the incident that occurred at Motaain on 10 October 1999.

B. Outline of events

2. On Monday 10 October 1999, fire was exchanged between an INTERFET patrol and Indonesian security force elements in the vicinity of the border between East and West Timor near the village of Motaain.

3. The contact occurred during the conduct of an INTERFET patrol that had been tasked to secure the village of Motaain, following reports of Militia activity and the intimidation and ill treatment of internally displaced persons. Maps in use by the INTERFET patrol at the time show the village to be approximately 600 metres within East Timor. The village is actually located on the western side of the border in West Timor.

4. The contact appears to have been initiated by TNI/POLRI personnel manning the border crossing post and continued for approximately 8-10 minutes. Two members of the BRIMOB platoon located at the Police Post (near the beach) on the border crossing were injured by return fire from the INTERFET patrol. One suffered fatal injuries and one remains in hospital with a serious injury to the leg. There is some photographic evidence of an additional (civilian) casualty, but no additional evidence has been sighted.

C. Joint investigation

5. The Commander International Force East Timor (COMINTERFET) and Commander Indonesian Task Force in East Timor (COMITFET) agreed to the establishment of a Joint Investigation Team to include representatives from INTERFET, TNI, POLRI and UNAMET (observers). Membership of the Investigation Team is as follows:

(a) Colonel Willem Rampangilei, ITFET;

(b) Lieutenant Colonel Liliek Koeshadianto, ITFET;

(c) Lieutenant Colonel Oegroseno, ITFET;

(d) Lieutenant Colonel Flowers, INTERFET headquarters;

(e) Lieutenant Colonel Grutzner, INTERFET headquarters;

(f) Major Bouquest (interpreter), INTERFET headquarters;

(g) Captain A. Suryo, ITFET;

(h) Staff Sergeant Hall, INTERFET headquarters.

6. UNAMET provided the following observers:

(a) Lieutenant Colonel Rao;

(b) Major Ayala.

7. Joint terms of reference (TOR) were developed by the Investigation Team and presented to respective commands for approval. These are attached as appendix A to the present report.

8. Two UNAMET personnel were present as observers throughout the investigation. The Investigation Team agreed to provide UNAMET with a copy of the completed report and the UNAMET representatives offered the opportunity to add comments to the final report if in disagreement with any aspect.

D. Areas of disagreement

9. The Joint Investigation Team, while determined to present a unanimous account of the incident and agreed conclusions and recommendations, acknowledged that differences of opinion were possible in the course of the enquiry, and agreed to reflect these in the report.

E. Aim and objectives

10. See appendix A.

F. Scope

11. The Joint Investigation Team was neither structured nor qualified to make comment, form conclusions or make recommendations in regards to technical or forensic matters. The investigation was not designed to apportion individual blame for the incident. The investigation report may subsequently be used by respective national authorities for the purpose of disciplinary action or review of procedures however, beyond general comments, this is outside the agreed TOR and will not be commented on further in this report.

12. In particular it should be noted that:

(a) The Investigation Team did not seek a post-mortem examination of the fatally injured POLRI officer, or medical examinations of the injured personnel;

(b) No physical evidence was collected at the scene of the incident;

(c) The collection of statements is limited to personnel in command positions. No attempts was made to collect statements from all available personnel at the scene;

(d) The question and answer elements of the interviews with INTERFET, TNI and POLRI personnel were recorded on audiotape. These have not been transcribed, however the audiotapes are submitted as part of this report;

(e) The civilian reported to have been injured was not able to be contacted or made available for interview.

13. The joint nature of the inquiry, and the requirement to submit the final report in a timely manner, supported this course of action.

G. Methodology

14. Following the agreement to conduct the enquiry as a joint effort, the nominated personnel met and discussed the conduct of the investigation. A draft TOR was prepared for each agency to present to their respective commanders.

15. The Joint Security Consultative Group (JSCG) was convened on 13 October 1999 and endorsed the formation and membership of the Joint Investigation Team.

16. An initial visit to Motaain was conducted on 14 October 1999. COMINTERFET and TNI/POLRI granted permission for INTERFET members of the Joint Investigation Team to cross into West Timor. During this visit, the following occurred:

(a) Familiarization of the area and general discussion;

(b) Verbal accounts of the incident were given by the TNI and POLRI platoon commanders and the Commander of KODIM 1605, Lieutenant Colonel Sigit. These officers subsequently provided written statements and were interviewed;

(c) Key INTERFET personnel involved in the incident provided written statements and the Commander of the lead section of the INTERFET patrol was interviewed by the Investigation Team. Time constraints during this visit prevented interviews with other INTERFET personnel;

(d) Topographical staff from INTERFET conducted a technical site survey of the incident area. This provided the basis for the sketch plan (see appendix B).

17. The Investigation Team returned to Motaain on 15 October 1999 to continue with the interviews of INTERFET personnel.

18. The Investigation Team returned to Motaain on 16 October 1999 to interview TNI and POLRI personnel who had completed written statements.

19. On 17 October 1999, the Joint Investigation Team met in Dili to confer on progress to date, identify any additional interviews required and agree on the format for the Report.

20. On 18 October 1999, senior TNI and INTERFET members of the Joint Investigation Team briefed the JSCG meeting in Dili on the progress of the

investigation. Other members of the Team returned to Motaain with the media video to show to TNI and POLRI personnel to clarify a number of outstanding issues.

21. Information collected and considered in this investigation includes:

(a) Statements by key personnel;

(b) Video of the incident site;

(c) Photographs.

22. Additional information was received and considered in the form of two videotapes recorded by media accompanying the INTERFET patrol and a sketch map produced by the INTERFET survey team. This information is submitted as a part of the present report.

II. CHRONOLOGY OF EVENTS

23. Following extensive enquiry, members of the Joint Investigation Team have unanimously agreed that the 10 October 1999 Motaain incident occurred in the following sequence (all timings are Dili local time):

(a) On 9 October 1999, a composite TNI platoon from 734 Battalion deployed as reinforcement to the POLRI (BRIMOB) platoon stationed at the Motaain border post;

(b) On the morning of 10 October 1999, INTERFET elements based at Batugade received information indicating the existence of internally displaced persons possibly restrained by Militia, who may have been operating behind a TNI/POLRI checkpoint in the village of Motaain. Motaain was marked on maps in use by INTERFET as in East Timor. The INTERFET element issued quick orders for a patrol to visit Motaain and confirm the veracity of this report;

(c) The INTERFET patrol commenced its move, on foot, westward out of Batugade at approximately 1120 hours; one hour after the Company Commander had issued orders. After following an initial route along the beach, the patrol advanced openly along the Batugade-Motaain road in "staggered file" formation. The order of march was 8 Platoon (one rifle section, platoon headquarters and then two more rifle sections), the Company Headquarters, a group of media and linguists, and a reserve rifle section at the rear;

(d) The INTERFET patrol moved through the grid reference indicated as the village of Motaain on the map in use without locating the expected concentration of internally displaced persons. It then continued moving to the west towards the actual village location and the border. Local people from Motaain saw the approach of the INTERFET patrol from the beach, and fled to warn POLRI/BRIMOB and TNI elements at the Motaain border post;

(e) At approximately 1215 hours and on receiving this warning, Lieutenant Wachid (BRIMOB) told nearby members of his BRIMOB platoon to move into their tent and "get ready";

(f) On also receiving this warning, Lieutenant Erwin (TNI) turned towards the bridge at the eastern side of the post and saw INTERFET personnel approaching. He then began to walk towards the bridge in order to meet them and talk;

(g) At approximately 1220 hours, as Lieutenant Erwin was approaching the INTERFET personnel, a warning shot was fired into the air from the immediate rear of the northern end of the checkpoint. This shot was immediately followed by a burst or rapid series of shots, from the same person or area and also into the air;

(h) Concurrent with or immediately after this fire, the INTERFET Section in vicinity of the bridge was engaged by fire from its slight right (this fire struck vegetation in close proximity to INTERFET personnel and was not considered as warning shots);

(i) Concurrently, the remainder of INTERFET troops who had been moving along the Batugade-Motaain road reacted to the shooting and deployed off the road. Most moved to the western side of the road (towards Motaain), with the majority in the vicinity of the first road bend progressively moving to take cover behind a low wall at the eastern end of the small park approximately 50 metres east of the border post;

(j) The INTERFET section engaged in the vicinity of the bridge then returned fire to its slight right with approximately 15 rounds from a Minimi fired in three to five round bursts;

(k) Shots were then exchanged between INTERFET and TNI/BRIMOB troops at the beach end of the position. BRIMOB sustained two casualties, one of which later proved fatal;

(l) Lieutenant Erwin, having successfully halted firing in the bridge area, then moved towards the beach area to tell troops in that vicinity to stop firing. During this time firing stopped and started between two distinct lulls, neither of which has been adequately explained. All firing had ceased by approximately 1228 hours, about eight minutes after the first shot was fired;

(m) Representatives from TNI (including Lieutenant Colonel Sigit, Commander Kodim 1605), BRIMOB and INTERFET subsequently met on the Batugade-Motaain road adjacent to the Motaain post to discuss the incident, casualties and obvious map discrepancies;

(n) At approximately 1435 hours INTERFET armoured personnel carriers (APC) arrived from Balibo to assist the INTERFET patrol to reinforce its position and then to withdraw back to Batugade;

(o) The above sequence of events is diagrammatically depicted in appendix B.

III. OBSERVATIONS AND EVALUATION

A. Communication and coordination

24. Prior to the commencement of Operation Lavarack, the deployment of INTERFET elements into the western regencies of East Timor, INTERFET headquarters staff briefed JSCG in Dili on the broad outline and intent of the operation. This did not include specific reference to operations near to the East/West Timor border. Operations in close proximity to the border, however, clearly contain the potential for contact with Indonesian elements operating on the western side of the border.

25. Prior to the incident at Motaain, the Indonesian authorities did not provide INTERFET or UNAMET with details of the location and manning details of its border posts. Also, UNAMET or INTERFET did not seek these details. POLRI elements are located at border crossing sites to monitor and manage the flow of internally displaced persons back to East Timor. TNI are located at these border posts to assist in the security of the areas and take command of the posts in the event of an emergency situation.

26. The detailed locations of TNI border dispositions have now been informally supplied by the commander of the battalion now tasked with border security.

27. As to whether INTERFET should give more detailed information on operations in the western areas, INTERFET is mandated to operate anywhere within East Timor without reference to external authorities. In addition, the requirement for operational security precludes the release of detailed information on operations anywhere in the INTERFET area of operations.

28. Whilst a border marker exists in the vicinity of Motaain, it was neither easily distinguishable nor legible. Additional advice to the Investigation Team is that many border-crossing points are poorly marked or not at all.

B. Maps

29. A number of problems have been identified with the maps in use by both INTERFET and TNI/POLRI at the time of the incident.

30. At the time of the incident INTERFET were using a map produced by the Australian Defence Force in 1992 and based on Indonesian data (reference A). This map clearly shows the village of Motaain located within East Timor, approximately 600-700 metres east of the border. This map shows an unnamed built-up area just to the west of the border in the actual location of Motaain. A copy of the relevant area of this map is attached as appendix D.

31. At the time of the incident, TNI/POLRI were using a map produced in 1946 by the Australian Military Forces, based on Dutch data from 1936-1938 (reference B). This map shows Motaain immediately to the west of the border. A copy of this map is attached as appendix E.

32. While not a direct cause of the incident, the location of the actual border between East and West Timor also differs on these maps. The detailed sketch map used (see appendix B) shows the two versions of the border location. The INTERFET patrol commander believed he was within East Timor, with the border crossing the road in the vicinity of the bridge at GR 14450915. Indonesian security elements at Motaain believed the border to lie astride the bridge at GR 14350905. A concrete pillar was sighted at this location indicating the entrance to the East Lesser Sunda province. A photograph of this marker is attached as appendix F.

33. INTERFET troops did not cross the border as they recognized it to be and as it was indicated on their map. The Joint Investigation Team has been unable to locate a more recently produced map. The INTERFET mandate restricts its operations to within East Timor, including the Ambeno enclave. The issue of the accuracy of available mapping of the Motaain area is not one that will be solved by this investigation. It should be noted that reference A includes the following marginal comment:

> "This map is not an official reference for National Administrative Boundaries" (English)

and

> "This map is not an official reference for national administrative and international boundaries, should any mistakes be found with this map, please report them to Bakosurtanal" (Bahasa Indonesian).

34. The Indonesian security elements were equally confident in the location of the border, due to the markings on their own maps, the presence of the border marker and their local knowledge.

IV. RULES OF ENGAGEMENT

35. The Joint Investigation Team has identified some differences in the rules for opening fire in place at the time of the incident and as they affect and were employed by INTERFET and TNI/BRIMOB forces. These discrepancies directly contributed to this incident.

A. TNI/POLRI (BRIMOB)

36. Key issues are:

(a) TNI/BRIMOB rules of engagement (not written but commonly understood) involve a verbal warning followed by warning shots (into the air) followed by the firing of live rounds;

(b) In this incident warning shots were fired but a verbal warning did not precede them. Lieutenant Erwin had been in the process of moving forward to talk to the INTERFET personnel who were overtly approaching the bridge immediately in front of the checkpoint. Given this fact it is assessed that

warning shots were neither required nor appropriate. They may have prompted a response that could have endangered the life of Lieutenant Erwin and are likely to have directly inspired the subsequent firing of directed shots from flanking troops who may have believed an attack was under way.

B. INTERFET

37. Key issues are:

(a) INTERFET rules governing the opening of fire ("Orders for Opening Fire" - OFOF) are formally produced and issued to each soldier on a card (see attachment 4). These cards form the basis of training, and were well known to the troops involved in this incident;

(b) When INTERFET troops in the vicinity of the bridge opened fire in response to the directed fire from their right, they did so in accordance with the rule allowing the use of lethal force when required for self-defence;

(c) When INTERFET troops in the vicinity of the beach wall opened fire they did so following the exchange of fire in the vicinity of the bridge and in the face of armed TNI/BRIMOB personnel aiming weapons at INTERFET troops near the bridge. They therefore fired in accordance with the issued OFOF allowing lethal force to be applied for the protection of INTERFET personnel.

V. PRESENCE OF MILITIA

38. The possible presence of Militia was detailed in a number of statements by INTERFET personnel involved in this incident. These allegations were largely based on the form of dress of personnel seen in the checkpoint and surrounding area at the time of the incident.

39. Interviews with TNI and POLRI personnel, including viewing of a number of T-shirts regularly worn in the area, have accounted for all but one. It is the opinion of the Joint Investigation Team that no Militia was present at Motaain at the time of the incident.

VI. PROCEDURES

A. INTERFET planning

40. The INTERFET patrol was conducted at short notice and with minimal time for planning and orders. The Joint Investigation Team noted the following areas of concern:

(a) The mission of the INTERFET patrol was to "secure Motaain in order to investigate reports of internally displaced persons and a TNI/POLRI checkpoint in that area". The patrol was conducted in accordance with the responsibility of INTERFET to protect the people of East Timor and to facilitate humanitarian assistance to them. INTERFET also had a responsibility to investigate reports

of the TNI/POLRI checkpoint in the village of Motaain, which was understood to be within East Timor, following the undertaking by authorities (Major General Syahnakri) to COMINTERFET that there were no TNI/POLRI elements operating in East Timor outside of defined areas within Dili. No attempt was made by INTERFET to pass specific information about this patrol to TNI or POLRI;

(b) Because the maps in use within INTERFET show the village of Motaain approximately one kilometre inside East Timor, planning for the INTERFET patrol appears to have paid only passing attention to the significance of the border. Only a map reconnaissance was conducted prior to commencement of this patrol as Motaain was outside the local INTERFET element's normal boundaries. No specific emphasis was placed on the conduct of navigation checks within close proximity to it. Actions to be carried out in the event the village was not found at the specified grid reference do not appear to have been detailed in orders. The Joint Investigation Team found that commanders at all levels within the INTERFET patrol understood that they were not authorized to cross the border, but specific arrangements to prevent an accidental crossing were not put in place.

B. TNI/BRIMOB coordination

41. At the time of the incident, one BRIMOB platoon, one TNI platoon, two TNI military police, and an integral POLRI element manned the Motaain border post. The Joint Investigation Team noted the following areas of concern:

(a) The TNI platoon had only deployed on 9 October 1999. The platoon therefore possessed a low level of familiarity with the area and with the tactical situation. This is likely to have contributed to feelings of uncertainty and insecurity when the platoon was faced with the unannounced approach of INTERFET troops. This is likely to have contributed to the inappropriate firing of warning shots;

(b) The TNI platoon was not a standing organization, and had never worked together as a full team before its deployment to Motaain. It was therefore unlikely to have achieved a high level of internal proficiency and a common understanding of the Commander's intent;

(c) Command and control arrangements at the Motaain border post were confusing and not well understood by all TNI/BRIMOB personnel. These arrangements placed TNI and BRIMOB personnel under respective command authorities during "normal" operations, with the TNI Platoon Commander to assume command in the event of a security emergency. The Joint Investigation Team noted this arrangement as impractical in a no-notice incident (such as occurred on 10 October 1999) and that it was not well understood by all TNI and BRIMOB members at the post;

(d) The Joint Investigation Team noted a lack of coordination between TNI and BRIMOB personnel at the border post. This included inconsistencies in actions in response to a security incident, as well as different forms of dress and locations for personnel during off-duty periods.

C. Cross-border coordination

42. The Joint Investigation Team noted that a lack of cross-border coordination had occurred between INTERFET and TNI/POLRI and that this directly contributed to the incident in the following ways:

(a) Information regarding the conduct by INTERFET of Operation Lavarack into the western regencies of East Timor had been passed to JSCG at Dili and passed onto the TNI headquarters at Jakarta. However, this information had not been passed to troops at the Motaain post;

(b) TNI/POLRI (BRIMOB) post locations were not known by INTERFET. Neither TNI/POLRI nor INTERFET had established procedures for dealing with unexpected meetings;

(c) No direct INTERFET-TNI/POLRI/BRIMOB communications in border regions had been established or developed.

VII. CONCLUSIONS

43. The following conclusions are drawn:

(a) This incident was caused by:

(i) Inadequate coordination and communication between INTERFET and TNI/BRIMOB;

(ii) An overreaction and inappropriate response by some TNI/BRIMOB personnel manning the Motaain border post;

(iii) The inadequate use of JSCG as a consultative and coordinating body, in particular regarding coordination between INTERFET and TNI/POLRI for operations in the vicinity of the border;

(iv) The use of different maps by INTERFET and TNI/POLRI elements;

(v) Inaccuracies in maps and inadequate border markings;

(b) Contributing factors included:

(i) Inadequate coordination and preparation of TNI and POLRI elements at the Motaain position;

(ii) The failure of the INTERFET patrol to apply adequate control measures to prevent straying too close to the border;

(iii) Intelligence information provided for the Motaain operation was inaccurate (i.e., that the internally displaced persons, TNI and POLRI were in East Timor);

(c) It is the opinion of the Joint Investigation Team that no Militia were present at Motaain at the time of the incident;

(d) Lieutenant Erwin's successful efforts to stop the shooting at both the bridge and the beach area brought the incident to a quick end and undoubtedly prevented further loss of life. He exhibited cool and effective leadership throughout the incident and, by continuing to move between groups of firers throughout the incident, placed the safety of the troops involved above any consideration of his own safety;

(e) Corporal Teong's quick assessment of the situation and strict adherence to the extant rules of engagement saw him effectively control the fire from his section whereby only fire that posed a real hazard to his men was returned. Fire was not directed into the direction of the checkpoint, despite the firing of warning shots from that vicinity. This effective leadership also prevented any additional loss of life.

VIII. RECOMMENDATIONS

44. The following recommendations are made:

(a) INTERFET and TNI/POLRI should establish interim arrangements to prevent respective forces meeting in border regions unintentionally and without prior coordination. In addition, procedures (not involving the firing of warning shots) should be agreed to address the possibility of miscalculation or error resulting in an accidental meeting of forces in the border region. The following options should be considered for incorporation into these interim arrangements:

(i) Locations of TNI border posts should be confirmed to INTERFET as soon as possible;

(ii) INTERFET operations involving movement in close proximity to border areas (within visual or audible range of border posts) should be advised to the responsible TNI headquarters in advance;

(iii) A buffer zone should be considered for establishment astride the border;

(iv) Direct communications should be established between INTERFET and the relevant TNI headquarters to facilitate cross-border coordination at relatively short notice;

(v) TNI and POLRI/BRIMOB elements manning border checkpoints should discontinue the practice of firing warning shots in response to any approach by INTERFET troops;

(b) The placement of liaison officers at border posts, possibly unarmed UNAMET personnel, should be considered;

(c) All border agreements and arrangements involving INTERFET are by definition temporary in nature and will require subsequent ratification by the United Nations through UNTAET;

(d) Indonesia and the United Nations should reach agreement on the land and maritime borders separating East and West Timor, including the enclave of Ambeno, and on how these borders will be confirmed and clearly marked;

(e) Indonesia and the United Nations should agree on how they will resolve any disputes on the exact location of the border between East and West Timor, including the border of the enclave of Ambeno.

(Signed) Colonel Willem RAMPANGILEI
ITFET

(Signed) Lieutenant Colonel GRUTZNER
INTERFET headquarters

(Signed) Lieutenant Colonel
Liliek KOESHADIANTO
ITFET

(Signed) Lieutenant Colonel FLOWERS
INTERFET headquarters

(Signed) Lieutenant Colonel OEGROSENO
ITFET

(Signed) Major BOUQUEST
INTERFET headquarters

(Signed) Captain A. SURYO
ITFET

(Signed) Staff Sergeant HALL
INTERFET headquarters

(Signed) Lieutenant Colonel RAO
UNAMET

(Signed) Major AYALA
UNAMET

I accept this report and the conclusions and recommendations herein.

(Signed) Major General P. J. COSGROVE
Commander, INTERFET
25 October 1999

List of appendices

A. Joint terms of reference

B. Chronology of the Motaain incident

C. Report by UNAMET observers

D. INTERFET map in use at the time of the incident

E. Indonesian (TNI/POLRI) map in use at the time of the incident

F. Photographs of border marker at GR 14550915

List of attachments

1. Statements by personnel involved in the incident

2. Audiotaped interviews with personnel involved in the incident

3. Media videotape of the incident

4. INTERFET orders for opening fire (OFOF) card

Appendix A

JOINT TERMS OF REFERENCE

1. Following discussions, COMINTERFET and COMITFET have agreed on the need for a joint INTERFET/ITFET investigation into the circumstances surrounding the incident in the vicinity of the East Timor/East Lesser Sunda border between Motaain and Batugade on 10 October 1999. In doing so, it is acknowledged that all relevant witnesses will be made available to the Joint Investigation Team.

2. Pursuant to that agreement, the following terms of reference are issued to the Joint Investigation Team.

3. The Joint Investigation Team is to comprise representatives from INTERFET, TNI and POLRI, and two observers from UNAMET. The inclusion of any additional participants or observers is to be agreed by the senior representatives from INTERFET, TNI and POLRI.

4. The Joint Investigation Team is to submit a written report on an incident which occurred on 10 October 1999 involving INTERFET and TNI/POLRI elements in the vicinity of the East Timor/East Lesser Sunda border between Motaain and Batugade.

5. The aim of the report is to inquire into the circumstances surrounding the incident.

6. The objectives of the investigation are to:

(a) Establish the sequence of events from the time of the first contact between INTERFET and TNI/POLRI elements;

(b) Detail actions taken by personnel involved in the incident;

(c) Identify and confirm key locations and events, including:

(i) First visual contact between INTERFET and TNI/POLRI elements;

(ii) Activities in progress and forms of dress at the time of the incident;

(iii) Presence, identity and activities of non-TNI/POLRI/INTERFET personnel in the incident area;

(iv) Initiation of fire;

(v) Direction and nature of all firing (e.g., warning or aimed shots, single shots or automatic fire);

(vi) Movement of elements during the incident;

(vii) Casualties;

(viii) Notable actions of any individuals;

(ix) Resolution of the incident and subsequent actions.

(d) Any discrepancies in maps used regarding the position of the East Timor/East Lesser Sunda border.

7. The following should be attached to the report of the Joint Investigation Team:

(a) Statements of all relevant INTERFET/TNI/POLRI personnel and other witnesses;

(b) Photographs and sketches of the scene of the incident;

(c) Maps of both INTERFET and TNI/POLRI personnel used at the time of the incident;

(d) Any video footage of the incident.

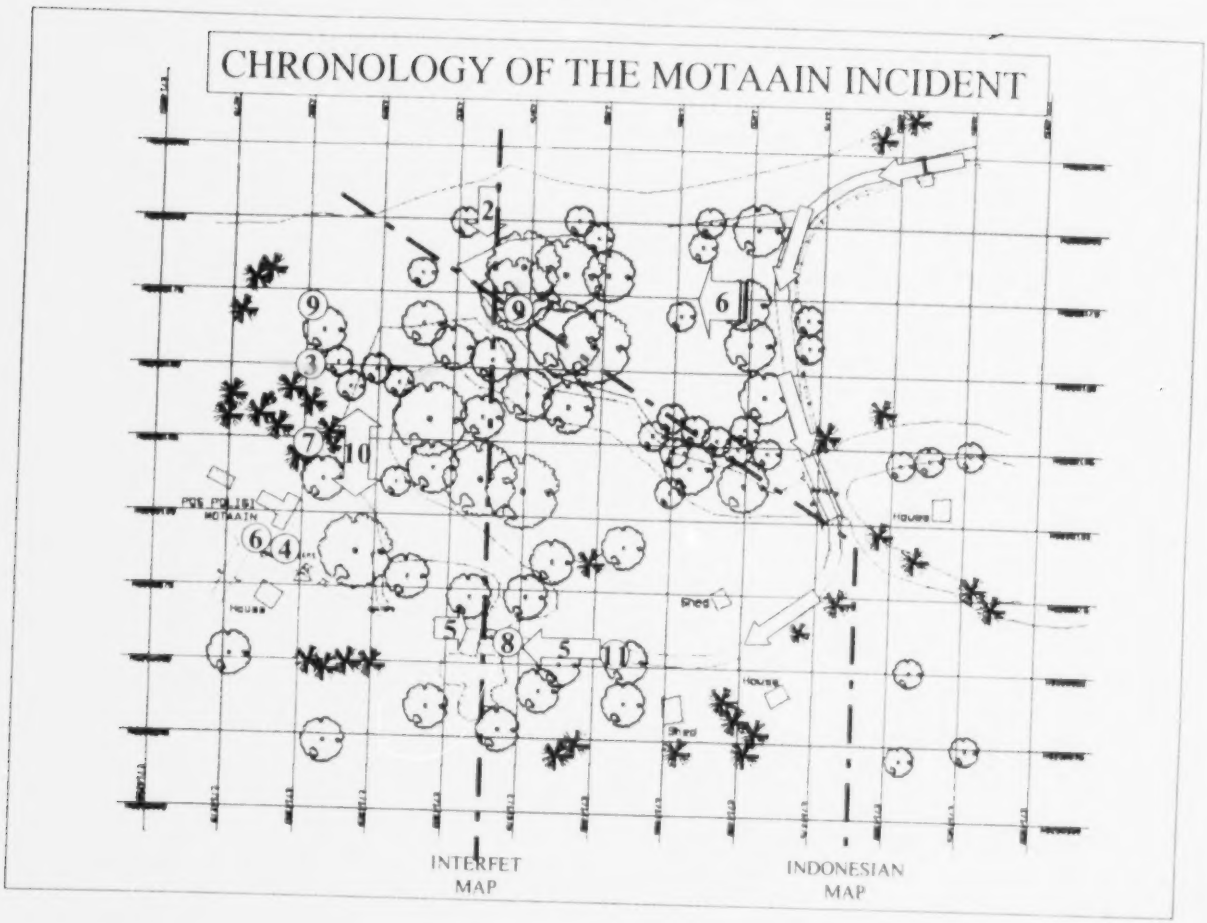
8. The Joint Investigation Team is to complete a report by 25 October 1999. The report is to include findings, conclusions, recommendations and specific areas or issues on which joint agreement could not be reached.

9. The report is to be jointly translated into English and Bahasa Indonesia.

(Signed) P. J. COSGROVE, AM, MC
Major-General
COMINTERFET

(Signed) Drs. J. D. SITORUS, MSC
Brigadier General (Police)
COMITFET

Appendix B



Chronology of the Motaain Incident - Notes

1. INTERFET Patrol advances along road in staggered file formation. Order of march is 8 Platoon (sect, pl HQ, sect, sect), Company HQ, Media and Linguists, and reserve section.

2. Locals see the approach and leave the beach to advise BRIMOB and TNI.

3. Lieutenant Wachid (BRIMOB) is advised and tells troops to move into tent and "get ready".

4. Lieutenant Erwin (TNI) is advised.

5. Lieutenant Erwin sees INTERFET troops near the bridge and moves towards bridge to meet them and talk.

6. Warning shot(s) fired (into air) from rear of checkpoint.

/...

7. Burst of fire engages INTERFET Section in vicinity of bridge. Concurrently, remainder of INTERFET troops react to firing and deploy off the road near the first bend. Most move to the western side of the road (towards Motaain).

8. INTERFET Section near bridge returns fire (Minimi) to its right flank.

9. Fire is exchanged between INTERFET and TNI/BRIMOB troops at the beach end of the position. BRIMOB sustain two casualties (one KIA, one WIA).

10. Having halted firing in the bridge area, Lieutenant Erwin moves to beach area to tell troops to stop firing.

11. Representatives from TNI, BRIMOB and INTERFET meet on the road near the bridge to discuss the incident, casualties and map discrepancies.

Appendix C

REPORT BY UNAMET OBSERVERS

1. General. The UNAMET military liaison officers detailed as observers with the Joint Investigation Team (JIT) generally agree with the report prepared by JIT, however, there are certain observations on the conceptual plane. The report/conclusions made by UNAMET observers is given in succeeding paragraphs.

2. Understanding about the border/use of different maps:

(a) The maps used by TNI in that area were printed in Australia in 1946 based on Dutch data, while maps being used by the INTERFET troops were printed in 1992, again in Australia, but based on Indonesian data;

(b) In the case of the border at Village Mota Ain, the old map used by TNI depicts this village in West Timor, whereas the maps used by INTERFET troops show the same village in East Timor. On the ground, Village Mota Ain is in West Timor (some 400 metres west of the border);

(c) This dichotomy in maps is the main cause of the incident because when INTERFET troops crossed the border on the ground (while according to their map they were still in East Timor), the TNI troops were unduly alarmed and thought that INTERFET troops were making an incursion into West Timor, and thus over reacted.

3. Lack of passage of information to ground troops:

(a) INTERFET. TNI authorities had informed INTERFET headquarters that there were no TNI/POLRI troops deployed in East Timor except in Dili. Although INTERFET headquarters did pass this information to its under command formations, this information was not passed down to the companies/troops on the ground. So when C Company of 2 RAR (Royal Australian Regiment) was tasked to take out the patrol and were informed that they may find/encounter a TNI/POLRI post, it did not alarm the Company Commander and other officers as to how TNI/POLRI was present in a village which according to their maps was in East Timor;

(b) TNI/POLRI. INTERFET headquarters informed TNI authorities of their Operation Lavarack, but TNI authorities did not pass on this information to their ground troops. As a result, the TNI/POLRI troops deployed on the border check post, including the TNI KODIM Commander responsible for this area, were ignorant of INTERFET troops operating close to their border.

4. Ground reconnaissance. C Company of 2 RAR was deployed in the town of Batugade (located a few kilometres to the east of the border) on 7 October 1999. According to the Company Commander, Village Mota Ain was out of their AOR (area of responsibility). However, on receipt of intelligence on internally displaced people/militia, Village Mota Ain was included in their AOR. The Company and Platoon Commanders, knowing that they were operating close to the border, did not carry out ground reconnaissance to know the extent and limits of their AOR. If this was done, the location of Village Mota Ain would have been known and

liaison with TNI/POLRI commanders located at the check post would have been established.

5. Unclear marking of border marker. The border marker at the provincial border reading "Welcome to NTT" in Bahasa language is old and does not draw the attention of a passer-by. If this border marker were clearly written both in Bahasa and English, the INTERFET troops crossing it would have read it and stopped for further instructions from their superiors before entering West Timor.

6. Firing by TNI/POLRI. On receiving reports that INTERFET troops had entered West Timor, the TNI Platoon Commander, Lieutenant Erwin Egy, started walking towards the leading elements of INTERFET troops. While he was a little distance away from them, some TNI soldier(s) fired first a single shot and then a burst into the air. On hearing gun shots, INTERFET troops rushed to get cover and deployed on ground. After that, an exchange of fire took place despite the Platoon Commander shouting to halt fire. If the standard operating procedures and how to react in such a similar situation had been written or made clear to the soldiers, they would not have opened fire and thus this unfortunate incident would have been avoided.

(Signed) Lieutenant Colonel M. K. RAO

(Signed) Major Jorge AYALA

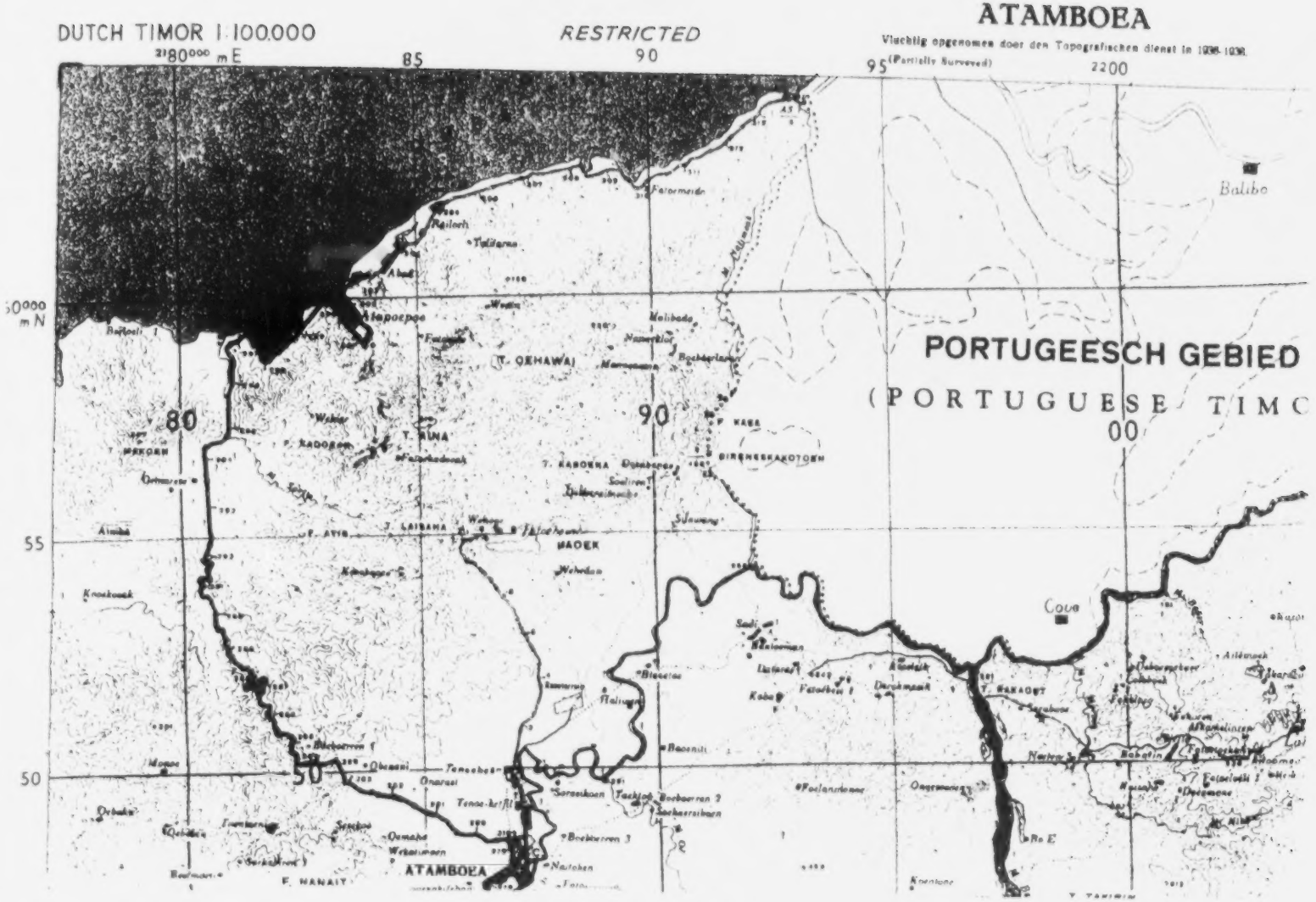
Appendix D

INTERFET MAP IN USE AT THE TIME OF THE INCIDENT

SCALE 1:125.000
18 KECAMATAN BATIBO
17
08 PROPINSI TIMOR TIMUR
07
06
11
10
Atambua
Halimanu
Betun
Motaain
Lamaknen
Tasifeto Timur
Tasifeto Barat
Laktutus
Laktutus
Laktutus

Appendix E

INDONESIAN (TNI/POLRI) MAP IN USE AT THE TIME OF THE INCIDENT

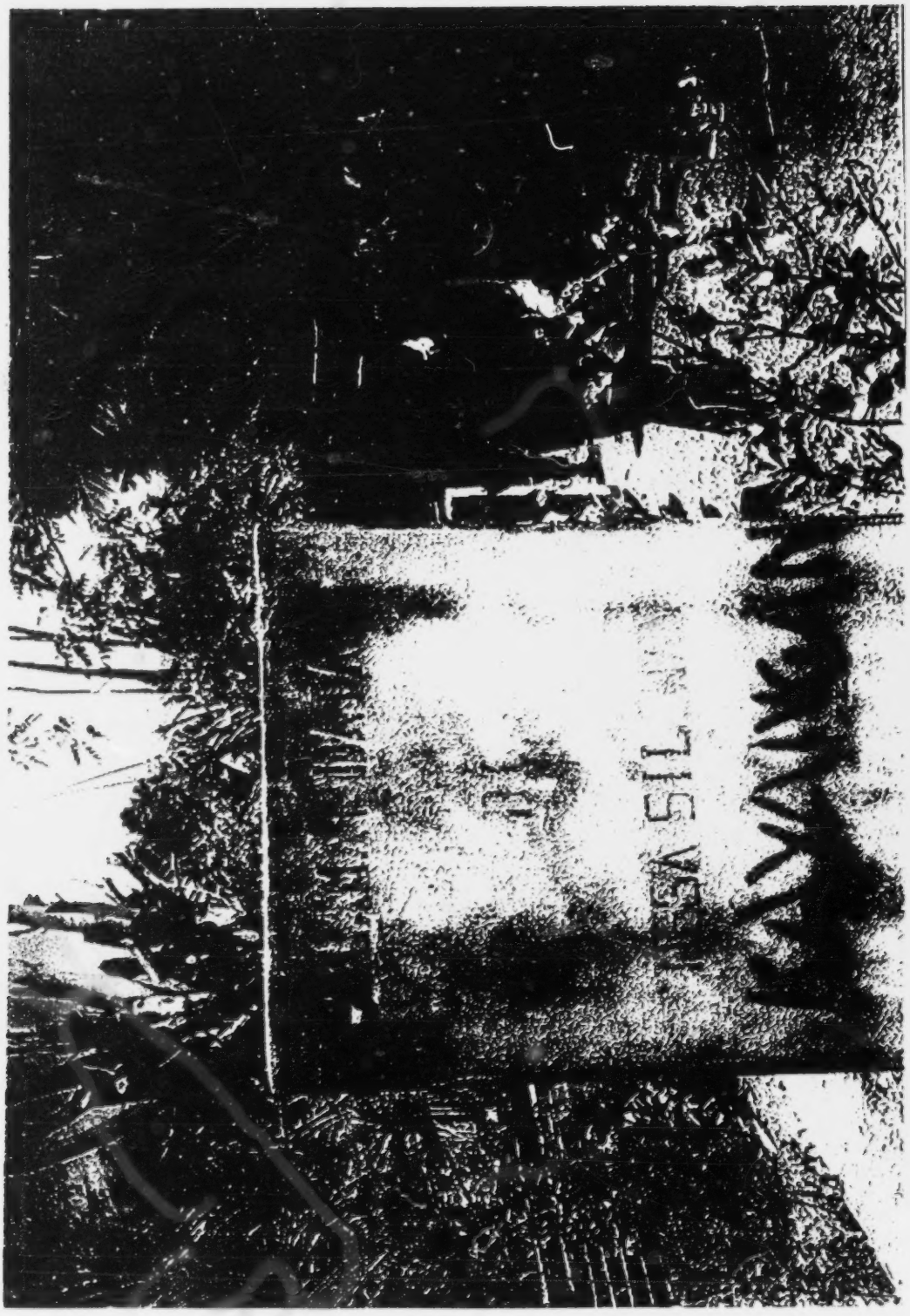

DUTCH TIMOR 1:100.000
RESTRICTED
ATAMBOEA
Vluchtig opgenomen door den Topografischen dienst in 1936-1938.
(Partially Surveyed)
2180000 mE
85
90
95
2200
50000 mN
80
90
00
55
50
PORTUGEESCH GEBIED
(PORTUGUESE TIMO
Balibo
Atapoepoe
Maliboda
T. OEHAWAI
T. KABOENA
BIRENHEKAKOTOEN
MAOEK
Cove
ATAMBOEA
F. HANAIT

Appendix F to joint
investigation report
dated 25 October 1999

Lampiran f pada laporan
investigasi gabungan
Tanggal 25 Oktober 1999

Appendix F

PHOTOGRAPHS OF BORDER MARKER
AT GR 14550915



/...

Attachment 1 to
joint investigation report
dated 25 October 1999

Lampiran satu pada
laporan investigasi gabungan
tanggal 25 Oktober 1999

Attachment 1

STATEMENTS BY PERSONNEL INVOLVED IN THE INCIDENT

INTERFET

SERVICE POLICE STATEMENT

Statement in the Matter of:		Place:	Date:
Contact/Incident 10 Oct 99		Motaain	10 Oct 99
Rank/Title:	**Name in full:**	**Service/Work Number:**	**Date of Birth:**
CPL	Paul John Teong	3808033	13 Aug 74
Place of Birth:	**Residential Address:**		
Gunnedah			
Category/Corps:	**Unit/Sect/Ship:**		**Occupation:**
RAInf	2 RAR		SECTCOMD
Employment Address:		**Work Phone**	
Lavarack Barracks TOWNSVILLE QLD		**Home Phone**	

Statement:

This statement is made in relation to the incident that occurred in the vicinity of the east/West Timor border on the 10 Oct 99. I have been ordered to make this statement to assist in the joint investigation and in the belief that this statement could not later be used against me in any legal proceedings.

I received orders on the morning of the 10 Oct 99 at 100 hrs for a platoon patrol plus elements of CHQ, attachments and a section from 7 platoon.

I was briefed in orders that we were to conduct a patrol to the village of Motaain where the company had received intelligence that suspected Militia men were holding local civilians in the village and preventing them from returning to their homes in East Timor, we were also briefed that there was a platoon of TNI, and Polri posted to the village, and that there was a road block being manned by the TNI at the entrance to the village, it was also believed that the village was fairly well populated.

All the actions on which I was given orders were in accordance with the rules of engagement, which I passed on to my section prior to leaving.

My sections task was to form a part of a hollow square formation, on the eastern side of the entrance to the village, back from the TNI road block.

We departed for the patrol at 1115 in staggered file down the service road towards Motaain, my section leading.

We patrolled to the location as discussed in orders, however the village described in orders wasn't there on the ground, this wasn't that surprising as the inaccuracy of the maps we've been issued to use in country have been misleading and incorrect; however, a village was clearly visible 400m to the West which appeared to be the village described in orders, as it had quite a lot of activity visible to the North of the village on the shoreline.

/...

INTERFET

SERVICE POLICE STATEMENT

As my section approached the village the road turned sharply to the left and then around a sharp bend to the right, once around the second bend my lead scout could see a large bridge and a TNI road block set back 40m to the West of the bridge, I too could see the bridge and the road block. I passed this information on to my platoon commander, and he immediately informed me to halt short of the bridge and adopt the formation as previously discussed in orders, I then realised that we had reached the border and I was not going any further West than the bridge. Before I could give the signal to stop the patrol TNI, and suspected men (dressed in TNI camouflage pants, T-shirt and no head dress) began cocking their weapons. I saw roughly two TNI members and four suspected Militia on the road block who seemed to be caught by surprise by our presence in the area. I passed back on my radio that they were cocking weapons to my platoon commander, before I finished my transmission the first shot rang out and a large volume of fire then followed, my section took cover, my forward scout took cover on the bridge, along side a concrete beam, I could see suspect Militia, firing in the air, and also firing deliberately high above our heads, almost immediately we started to take effective fire from the tree line to our slight right 60m forward of the bridge across the river. I was then concerned for the safety of my section, so I pushed my F89 operator forward of my No. 1 scout on the bridge, to return fire into the tree line allowing my scout on the bridge to move safely back towards the rest of the section which by now covering down the bridge and out to the flanks, my F89 operator shot well-aimed bursts (15-20 rds, 2-3 rd burst) into the tree line, the effective fire then ceased and I informed my gunner to stay on the bridge and cover the TNI members on the road block, along with myself, when my gunner fired the suspect Militia fled to the North and South of the village, just after the first shot was fired, a TNI platoon commander was trying to get his troops to cease fire as I believe he could clearly see that our intentions were not to get into contact with the TNI or Polri, more TNI members then arrived at the VCP and the firing began to slow, at no time was I aware who was firing from the tree line or further to the North as they were obscured by trees and large shrubs. My main concerns during the contact was the safety of my section and the need to avoid a clash with TNI members on the road block, my section acted professionally and instinctively during the contact and followed all the rules of engagement given to them as per the yellow card.

(Signed) P. J. TEONG (Corporal)

/...

INTERFET

SERVICE POLICE STATEMENT

Statement in the Matter of:		Place:	Date:
CONTACT / INCIDENT 10 OCTOBER 1999		MOTAAIN	10 OCT 99
Rank/Title:	**Name in full:**	**Service/Work Number:**	**Date of Birth:**
LT	PETER JONATHON HALLEDAY	3811421	23 DEC 79
Place of Birth:	**Residential Address:**		
VICTORIA			
Category/Corps:	**Unit/Sect/Ship:**		**Occupation:**
RA Inf	8 Pl C Coy 2 RAR		Army Officer
Employment Address:		**Work Phone**	
Lavarack Barracks TOWNSVILLE QLD		**Home Phone**	

Statement:

This statement is made in relation to the incident that occurred in the vicinity of the East/West Timor Border on 10 Oct 99. I have been ordered to make this statement to assist in the joint investigation and in the belief that this statement could not later be used against me in any proceedings.

On the morning of the 10 Oct 99, between 0830 h to 0930 h, I received orders for a patrol that was to be conducted between 1100 h to 1600 h that day. This patrol was tasked in light of recent intelligence that made reference to the town of Motaain, west of Batagade, but east of the border. Information was passed down that refugees/internally displaced persons were possibly being mistreated and were being held captive in the town. This information was passed down in orders to me by my Officer Commanding, Major Bryant. The town was described as being populated, with possibly a Polri or TNI checkpoint at the start of it. My task was to provide security to the elements of my Company Headquarters that were attached for linguistic purposes. My exact tasks were to patrol forward of the company Headquarters and to provide security for them. I was informed to stop at the beginning of the town I thought to be Motaain. Adopt a "U" shape formation. And inform higher that we had reached the town. I was to carry out the same action if my patrol reached an Indonesian checkpoint. Once my patrol had adopted the formation, I was to call elements of Company Headquarters forward so that linguists could gain information from the local population, while my platoon provided security. My actions on contact were to be in accordance with ROE. No information was given in regards to the East/West Timor Border as the town of Motaain is on this side of the border. The patrol left Batagade at approximately 115 h. Upon arriving at the town of Motaain, as it is marked on the map. There were no villages or urban areas as the map depicts. I was not concerned or surprised at this as a result of recent findings that indicated a severe inaccuracy of the map. Recent patrols I have conducted have shown urban areas on the map that don't exist on the ground. I have also found large villages on the ground which don't exist on the map.

/...

INTERFET

SERVICE POLICE STATEMENT

Statement by: LT P.J. HALLEDAY

Therefore, I assumed the town of Motaain must stretch further west. Once my platoon was, as the map indicated, at Motaain, I could clearly see an urban area. In front of this area was the beach where quite a number of people were swimming. As I had received information that we were patrolling to a populated area. I assumed this area we could see was actually Motaain. Once again I was not surprised that Motaain was not quite where it was marked on the map. I then informed my company commander that we were 400m out and that we would continue patrolling.

When my platoon neared the beach, the people swimming promptly moved from the beach into the urban area to the rear. I remember being surprised at how quickly the beach cleared of people. My patrol continued until my section commander Cpl Paul Teong to hold there, adopt the "U" shape formation, and to not cross the bridge. Directly after that transmission, my patrol was fired upon directly in front of them, and almost immediately, to their diagonal right. My platoon carried out the contact drill and went to ground. Very quickly my platoon received more fire. It appeared as if there was accurate and inaccurate fire. My lead elements have told me they had bullets hit ground and vegetation within 20cm of them. I was situated behind my lead section, and I was also receiving offensive fire. Whoever was firing at us was also at times firing high above our heads.

I was passed information from my lead section who said there was TNI, Polri, and people out of uniform firing and moving around with weapons on the other side of the river. I was also informed that people in red and white t-shirts were firing in the air down the road. During this time we were still receiving fire. I then received information that there was a TNI Platoon Commander walking down the road towards us apparently telling his men to stop firing. I took this as a very strange action and thought that whoever was firing at us mistook us for someone else. I then screamed to my men to take sight pictures but not to shoot. The only firing that came from my platoon was to allow my forward elements who were in the open to withdraw to cover as they received fire.

My lead section directed the TNI Platoon Commander to my location. He stated that if we cross the river we were going into West Timor and that his men could take action against us. I told him we wouldn't cross the river and also told him to tell his men to stop firing.

The TNI/Polri/Militia on the other side of the river then withdrew and all firing stopped. My platoon then went into all-round defence on this side of the river and awaited further instructions. Elements of my Company Headquarters then came forward and spoke with the TNI and Polri Commanders. My Platoon was

INTERFET

SERVICE POLICE STATEMENT

Statement by: LT P.J. HALLEDAY

then retasked. Before departing the location my platoon Sgt took an eight-figure grid reference to confirm the contact location.

From there my Platoon provided security to the rear of the site while negotiations continued.

(Signed) P. J. HALLEDAY (Lieutenant)

INTERFET

SERVICE POLICE STATEMENT

Statement in the Matter of:		Place:	Date:
Contact/Incident 10 Oct 99		Motaain	10 Oct 99
Rank/Title:	**Name in full:**	**Service/Work Number:**	**Date of Birth:**
MAJ	James Lachlan BRYANT	234408	21/8/68
Place of Birth:	**Residential Address:**		
Melbourne			
Category/Corps:	**Unit/Sect/Ship:**		**Occupation:**
RAInf	2 RAR		Army Officer
Employment Address:		**Work Phone**	
Lavarack Barracks TOWNSVILLE QLD		**Home Phone**	

Statement:

This statement is made in relation to the incident that occurred in the vicinity of the East/West Timor border on 10 Oct 99. I have been ordered to make this statement to assist in the joint investigation and in the belief that this statement could not be later used against me in any legal proceedings.

At approximately 1015 h on 10 Oct 99, I was summonsed to my CP to speak to my CO. He stated that he wanted me to take an element of my Coy to the town of Motaain. Two platoons of Polri had been reported by IDP as not allowing people to proceed to our loc from West Timor. We had a boundary extension to the far edge of Motaain so that we could deploy to the TNI position in order to investigate the matter.

I duly drafted orders for the Coy and gave those orders at approximately 1045 h. Included in those orders were tasks to LT Halleday, OC 8 P1, to deploy his platoon to the TNI position at Motaain, move his Section into a U shape at that loc, whereupon I would move up and ask to speak to the Comd. Through an interpreter I planned to discuss with him the IDP allegations.

His scheme of manoeuvre was directed as follows:

To follow a foot pad to a position approximately 1,000 m from the fort of Batugade led by a Section of 7 P1 who would then prop in that position to provide a secure base and rear protection. He was then to pass through 7 P1 in staggered file until he came to the Polri position whereupon I would come forward. Actions on were SOP in relation to contact and ambush. We believed the town of Motaain was GR 149093.

The order of march was 8 P1, Coy HQ, media elements and the 7 P1 Section last after it had led to where the foot pad met the road at GR 155096. The Coy HQ deployed at 1145 hr from the VCP at 167104 via the foot pad and duly got on the road. I figured that it was roughly 800-900 metres from where the Coy had

/...

INTERFET

SERVICE POLICE STATEMENT

Statement by: James Lachlan BRYANT

rejoined the road to the town of Motaain. At approximately 1225 h I noticed my lead P1 kink left following the road. This seemed strange so I checked my map and paces but as we had not yet reached the creek at the 149 easting and I had not yet reached 900 metres on my pacing I felt the man-made feature, the road, was not correctly marked. At that time my Coy Sig was told by 8 P1 that people swimming on the beach were running into a village. I felt that we had reached Motaain. Upon seeing a thatched hut with a red flag I was perplexed and slowed to talk to my Sig to prop 8 P1 for a minute while I checked out the hut and my map.

At that point rounds were fired towards our left forward elements (8 P1) from over in the village. After a lull the weight of rounds intensified and 8 P1 returned fire. CHQ was unable to see 8 P1's contact due to terrain and foliage. Elements in yellow and red T-shirts could be seen running out of the hut and towards 8 P1. Some were firing. CHQ by now were moving for the safety of a concrete wall. Seeing 8 P1 being engaged, CHQ engaged the elements in front of us. The persons we were shooting at were not in uniform. I saw a man fall in the firing in front of the hut. He had a black shirt and was firing a weapon with a curved magazine. He was dragged back by a group of others. Elements to my right near the beach were receiving incoming fire.

I saw another man shot and both were carried out of view by persons in standard TNI uniform. Persons in mixed dress withdrew behind the hut and several CHQ watched them hand their weapons to TNI/POLRI. I saw three vehicles leave the loc but could not identify who they were. At this stage, some 2-3 minutes in my estimate, I knew something was amiss and reminded my people of the ROE and got the interpreter to yell in Tetum and Indonesian to put their weapons down. Just before I was moving to the wall MAJ Kilcullen told me that my rear element from 7 P1 was also engaging a group of fiver pers to our North West flank.

By now all firing had ceased. However my interpreters were getting no response about us telling them to put their weapons down. A number had moved into view however, only being partially concealed which to me signified their non-hostile intent. By then I had heard from my Sig that 8 P1 were talking to a TNI Officer on a bridge. I decided to do the same thing and stood up, put my weapon on the wall and walked forward with my hands up. A TNI Officer did the same. We shook hands and through my interpreter, who had accompanied me, he asked me to come with him to meet his OC (Commandante). On the way to the bridge a man in brown pants and an undone shirt ran passed me with a slung bolt action weapon and a revolver in his belt. He was wearing no shoes. I pointed

INTERFET

SERVICE POLICE STATEMENT

Statement by: James Lachlan BRYANT

out the man as he ran past me and said stupidly in English who the ----* is he? They all shook their heads and said "No No". I ignored them and tried to block his way. As he put his hand on his revolver I thought "you win" and let him pass. Major Kilcullen, myself and a number of TNI Officers then discussed where the border is. After abandoning the discussion and tying in my position I took a GPS reading when ordered to by the OPSO. The reading was 145093. I was confused by this and still am.

This is because although the road matches the map at 145 the creek does not. It was the first one we had come to which would make us at 149. From previous experience in Timor I trust natural features more than man-made features. I withdrew the Coy at 1545 h and the Pioneer P1 that had come to reinforce us at 1545 h on order.

(Signed) J. L. BRYANT (Major)

* Expletive deleted.

/...

INTERFET

SERVICE POLICE STATEMENT

Statement in the Matter of: **Contact/Incident 10 Oct 99**		Place: Motaain	Date: 10 Oct 99
Rank/Title: **MAJ**	Name in full: **David John Kilcullen**	Service/Work Number: 233408	Date of Birth: 8 Jul 67
Place of Birth: Toronto	Residential Address:		
Category/Corps: Infantry	Unit/Sect/Ship: 2 RAR		Occupation: OC Spt Coy
Employment Address: Lavarack Barracks TOWNSVILLE QLD		Work Phone	
		Home Phone	

Statement:

This statement is made in relation to the incident that occurred in the vicinity of the East/West Timor border on 10 Oct 99. I have been ordered to make this statement to assist in the joint investigation and in the belief that this statement could not be later used against me in any legal proceedings.

My role within the unit is to plan, coordinate, brief and debrief patrols. However, as an Indonesian linguist I am also employed from time to time as an interpreter.

On 9 Oct 99, 2 RAR had received numerous reports from civilians at the Batugade position, that several hundred refugees were being held against their will in the Town of Motaain. I identified this town as marked on the 1:50 000 INTERFET map as being astride a large river at GR 150093. Based on discussion with the CO we requested from 3 Bde Headquarters a boundary extension to the 144 Easting. This was chosen because it is the point where the river crosses the road and is an unmistakeable physical feature. In three weeks of operations in the Balibo/ Batugade area we have found the map to be highly inaccurate in regard to man made features particularly roads and towns. Roads have regularly been found to be 400 m or more out and towns to be non-existent or in different places from the map reference shown.

The following direction was given to C Coy 2 RAR:

1. Advance to and secure the village of Motaain;

2. Negotiate with any TNI or Militia elements found, in order to inspect the refugees;

3. Determine their condition and report.

/...

INTERFET

SERVICE POLICE STATEMENT

Statement by: **David John Kilcullen**

Following this the Commanding Officer directed me to accompany the patrol and act as interpreter or negotiator as necessary. I therefore moved to Batugade and met with MAJ Bryant, Officer Commanding C Coy.

On arrival at Batugade I found MAJ Bryant had already been given the same direction from Battalion Headquarters. I therefore confirmed with him his limit of exploitation and that it was marked by a large river and a town of several hundred persons, as had been stated by the reports. The time now was approximately 1045 hr on 10 Oct 99.

At 1145 hr C Coy commenced to advance, led by 8 Pl. I was at the rear of the patrol with linguist and other special personnel. We moved through bush for approximately 900 metres then rejoined the main East/West road. I was navigating using 1:50 000 map and counting paces and bearings. After moving along the road for about 900 metres I came to two locals sitting by the road. We greeted each other in Indonesian and I told them not to worry, that this was a routine check. I asked them the way to Motaain and they pointed further along the road.

I then walked on about 50 metres when there was a large burst of automatic fire from the front of the column. About 30 rounds passed over my head as I took cover in the monsoon drain on the left side of the road. Based on my pacing from the start of the patrol I believed that I was located at approximately GR 151093 when this occurred. I called to my Signaller and we then moved forward along the drain. Heavy fire was coming down the road and after I had gone about 100 m there was another burst of firing from my right rear. I heard shouting to the effect that Militia had got in behind our position. I could not raise MAJ Bryant on the radio so I took my Signaller and moved forward along the drain about 200 m around a curve in the road when I came to a bridge across the river. Based on this I believed that I had reached the river at Motaain at GR 149043. I could not keep moving forward so I shouted to the nearest troops, asking where MAJ Bryant was located. They answered "across the road", so I took my Signaller across the road at a run. As we crossed approximately 20 rounds passed between us, however due to the heavy fire coming in from across the river I do not believe it was aimed specifically at us. I then found myself in a garden with a low stone wall. I moved to my right front to Major Bryant and we discussed the situation. The fire had died down by this time and several persons in TNI uniforms had appeared. I briefed the Commanding Officer using my radio, then myself and the Company linguist began calling to the TNI to cease fire. I could see about ten TNI moving among the trees and a group of about six carrying what appeared to be a body out of a hut across the river to my front.

INTERFET

SERVICE POLICE STATEMENT

Statement by: **David John Kilcullen**

I then spoke to MAJ Bryant and we decided to advance on each flank and attempt to speak to the Indonesian Commander. I took my Signaller and the Company Forward Observer as escort, and briefed them on the plan. We then advanced forward across the bridge and to a point just beyond it, where we saw a number of TNI and Polri standing in the road. I greeted them, and they apologized for the incident. I asked them why they fired at us and they said their troops fired because they were surprised by us. I asked why they were in East Timor and they stated that this was West Timor. At this point I was talking to two Officers, Lt. Erwin Egy (TNI) and Lt. M. Wachid (POLRI). I asked them to confirm that this was the village of Motaain. They said yes. I then said that in that case the border was another five hundred metres ahead. They said no it is the river just ahead of you (referring to and pointing at a second smaller bridge to my West). At this point Army PR and civilian media were arriving. I showed Lt. Erwin my map and discussed the position with him. He did not have a map but stated that he understood the border to be on the river. I then said that I would have to seek guidance from higher and in the meantime we agreed that our troops would put their weapons down and remain exactly in place. I asked if they had anyone injured, they said two wounded. I offered them the use of our Medic or Ambulance however they declined.

While waiting for guidance I spoke to LT Halleday, the Platoon Commander. He stated that he had been fired on by two Militia at the start of the contact from the road in front of him. He said he knew they were Militia because they were dressed in cam pants and red, yellow and green T shirts and were armed with (illegible).

At this point LTCOL Sigit Yuwono Kodim Commander, arrived on the scene. He stated that the river marked the boundary. I again showed him my map and confirmed that the river was 500 m on our side of the border. He agreed that this position was Motaain, but still maintained that the river was the border. He then went away for about 10 minutes. During this time MAJ Bryant arrived and we discussed the situation. We both agreed that we were still in East Timor, but that it would be provocative to advance further. I briefed the Commanding Officer by radio and was told to wait in that location as he was seeking guidance from the Bde Commander.

At this point CNN and other news media were present. MAJ Bryant gave a brief statement. LTCOL Sigit Yuwono then returned with a map showing Motaain on the West of the border and a large river running through it. I pointed out to him that his map was a 1933 Dutch addition at 1:100 000 scale whereas mine was a 1992 map made in Indonesia. I believed that this conversation was filmed.

/...

INTERFET

SERVICE POLICE STATEMENT

Statement by: **David John Kilcullen**

I then asked LTCOL Yuwono if he wanted to make a statement to the media. He said that he did not speak English. I then asked if we could agree on a joint statement and I could relay it to the media on his behalf. He agreed to this. Together we agreed that:

a. The contact occurred at Motaain;

b. Indonesian troops/Militia fired first and Australian troops returned fire;

c. Our maps were different and showed the border differently;

d. In the Indonesian view the contact occurred just inside East Timor by about 100 metres. In the Australian view it occurred 500 metres inside East Timor.

I then passed this statement to the media. I then briefed the Commanding Officer who directed me to return to Balibo and give him a full account of the engagement. I did this. Just as I was leaving a Section of Armoured Personnel Carriers (4 vehicles) and a Platoon from the Battalion Reserve arrived.

I then drove back to Batugade and on to Balibo. On arrival I briefed the Commanding Officer and wrote a contact report for Brigade HQ.

All the above conversations with Indonesian personnel occurred in Indonesian. To the best of my knowledge the above is a full and accurate statement of my actions and opinions at the time of the incident.

(Signed) D. J. KILCULLEN (Major)

Statement of Second Lieutenant (Police) Moch Wahid (Second in Command East Java Brimob Company) regarding the armed contact incident with INTERFET at the Motaain Police Post, in the region of Silawan village, East Tasifeto district, Belu regency

The sequence of the incident was as follows:

- That on Sunday 10 October 1999 at 1220 Central Indonesian time fishermen who were in the vicinity of the beach came running to report to two Brimob members, who then reported to me, that there were INTERFET troops entering the border district. At that time I was in the tent preparing lunch, whilst some of my men were cooking around the tent.

- That the presence of my troops at the Motaain Police Post was to conduct security tasks against refugees who were in the territory of Belu regency, specifically Silawan village and surrounds.

- That in relation to the verbal report from my two men I ordered all of my troops to be alert and adopt a fire position inside the tent. At that moment I also heard the noise of shooting on the main road and because of that my men immediately spread out to seek cover.

- That along with the warning shot from the main road there was immediately a return of fire from INTERFET troops who at that stage were on the edge of the beach, located exactly in the park where fire from those INTERFET was directed towards the territory of Belu/ the place where the troops were accommodated. Because of that my troops returned fire in the direction of the INTERFET troops and an exchange of fire occurred for about fifteen minutes.

- After that I heard yelling from 2LT Erwin (Platoon Commander TNI-AD) to cease fire immediately. Consequently I ordered my troops to cease fire.

- Following that I was called by 2LT Erwin to meet with him and accompany him to meet with INTERFET troops on the bridge nearest the Police Post to negotiate with them. On our arrival there we met with the INTERFET Forces Commander and also then with the interpreter (MAJ David Killcullen). MAJ David immediately apologised for the misunderstanding and then stated that he was here to pick up refugees from Atambua who were wishing to return to East Timor after that I said there are no refugees who wish to go back to East Timor. During this time one of my members came to report that some of my troops had been shot and had been evacuated to Atambua. MAJ David then asked do you have troops who have been shot? I said yes we have no some who have been shot MAJ David inquired further do you have a medic here and I answered that the casualties had already been take to Atambua. Then MAJ David said if you don't have a medic I do. I then said they have already been taken to the hospital.

- After that I immediately excused myself to 2LT Erwin to report the incident to the head of the Belu Police Resort. Following that I return to the Brimob camp.

Statement of Second Lieutenant (Infantry) Erwin Egy (Commander 2 Platoon A Coy 743 Infantry Battalion/PSJ) regarding the armed contact incident with INTERFET at the Motaain Police Post, in the region of Silawan village, East Tasifeto district, Belu regency

The sequence of the incident as follows:

- On Sunday 10 October 1999 at 1220 Central Indonesian time villagers around the beach ran to report that there were INTERFET soldiers entering the border region. At that time I saw and confirmed that INTERFET Forces were entering the border region along the main road. Because of that I acted by approaching the INTERFET Forces. I was approximately 10 metres short of reaching the INTERFET Forces when I heard a single shot fired. Not long after a heavy contact occurred in the vicinity of the beach. I then turned to the right and ordered a cease fire and informed the INTERFET Forces to immediately cease fire. However firing continued to be heard from the direction of the beach. I continued to approach the INTERFET soldiers to speak with their Commander. After meeting with him we spoke and I requested that the two sides cease fire. Because I could still hear firing in the vicinity of the beach I ordered my men in the area of the beach to cease fire and called 2LT Wahid to then accompany me for discussion with the INTERFET Commander. When I was with the INTERFET Commander shooting continues so I told the INTERFET Commander to stay in place and that I was going to the beach to order a cease fire. At the same time I requested 2LT Wahid to negotiate in the place that the INTERFET Commander was on his arrival the two of us met with the INTERFET Commander on the bridge and he said wait for five or ten minutes as an interpreter from INTERFET will be along shortly. We waited for the interpreter at the fallen tree on the side of the road. Not long after the interpreter arrived, greeted us and apologised for the misunderstanding that had happened. I then asked what was the INTERFET Forces intention? MAJ David answered that they had come to pick up refugees who were going back to East Timor. Then MAJ David asked if I had a map. I replied no then MAJ David opened his map and said that he was within the territory of East Timor, and that from where he stood and to his front approximately 400 metres was still within the territory of East Timor. I then requested that the INTERFET troops remain in place, do not advance any further, and that I was waiting for the arrival of the military district commander and the battalion 2IC who had already been contacted. Then a Brimob member approached and stated that some Brimob had been shot. MAJ David asked if there were any TNI/Polri who had been shot I answered that there were. Then MAJ David offered medical support but 2LT Wahid answered that the casualty had already been taken to Atambua. Then 2LT Wahid excused himself to me to go and check on his soldier who had been shot. Following that he was going to report to the head of the Belu Police Resort. Not long after this two INTERFET soldiers approached, one with glasses and one other who had a red cross arm band on, both of which could speak Indonesian. Then he requested that I permit his troops to pass the Police checkpoint to look for a person wearing a red and yellow t-shirt. He requested that on entering Indonesian troops do not shoot and that he and his men would not disturb the refugees. I answered by informing him that he was not permitted to pass the checkpoint and that if he was to pass the situation would become much worse and difficult to control. At that point through the INTERFET interpreter he continued to insist that he would be allowed to pass through the checkpoint. I continued to refuse permission because the refugees here do not like foreigners and further more they had been defeated in the ballot which was the reason that they sought refuge. Following that the INTERFET Forces did not pressure me any more about that point. Then at 1320L the Commander of 1605 Military District Command, Belu arrived at the Motaain Post and immediately headed towards us. I then informed MAJ David that the person approaching was the Commander of the Military District Command I then reported to Military District Commander that we were discussing a problem with the map and then the Military District Commander and MAJ David looked at the map on the road. While looking at that map two land rovers and one white vehicle approached which became apparent that they were reporters. They immediately began taking photographs of the area and following that I accompanied the Military District Commander during those negotiations. And after looking at the map I accompanied the Military District Commander to point out the NTT/East Timor border marker. However MAJ David refused the Military District Commanders invitation and MAJ David then checked with his GPS his position and it became apparent to MAJ David who conceded that it was indeed true that the road they

were on was within the territory of NTT. Following that the reporters returned to the direction of Batugade then MAJ David apologised whilst at the same time shaking hands with all of us. Following that his group withdrew to the area of Batugade and we returned as well to the Motaain Police Post. At 1435L five INTERFET APC's entered the border/wall border area near the beach and immediately adopted a fire position towards the INTERFET troops. Then at about 1530hrs reporters from TVRI immediately were directed to take a picture of the INTERFET APC's . The APC's became aware of the presence of the reporters taking pictures and shooting to immediately withdraw to Batugade. That is my statement

Statement of Commander 1605 BELU Military District Commander (DANDIM) LIEUTENANT Colonel (Infantry) Sigit Yuwono regarding the armed contact between INTERFET troops and Security Forces at the Motaain Police Post, Silawan village, East Tasifeto district, Belu regency

On this day, Sunday 10 October 1999, at 1255 Indonesian Central Time, I was in my office at the HQ KODIM 1605 BELU in ATAMBUA when I received through my "Handi-Talki" from the MOTAAIN Border Post that there had been a shooting contact between INTERFET troops and the Security Forces at the MOTAAIN Police Post. At the time I was in my daily uniform, and so I departed immediately in my staff car towards the MOTAAIN Police Post. On the way to the MOTAAIN Police Post I noticed were many civilians and refugees fleeing towards SILAWAN Village taking with them their belongings because they were frightened. At around 1320L I arrived at the MOTAAIN Police Post, and met immediately with the INTERFET Commander, MAJ David (sic). About 20 INTERFET soldiers were lying in fire positions all around the two of us. The two of us then shook hands, and I then asked why had INTERFET entered the territory of East Lesser Sundas (NTT) Province by approximately 200m. MAJ Killcullen answered that where we were was the Territory of East Timor. I then asked him what is his mission was that required him enter border region ? MAJ David answered that his troops were to pick-up East Timorese refugees who were in the border region, and were going to return to the territory of East Timor. Then I said lets orientate our maps and I pointed out the border in accordance with the map, explaining that this road is already within the territory on NTT. Then I pointed out that at the bridge there was a monument with writing on it saying welcome to NTT. However the presence of INTERFET Forces in the vicinity of the beach were still within the territory of East Timor. But MAJ David continued to insist that his position was within the territory of East Timor and that the map that I was pointing at was not valid because it was an old map (1943). Then I invited him to look at the NTT welcome monument and the houses which are around the road all of which are within the territory of NTT. But MAJ David did not take up my invitation to look at the NTT border monument even though I continued to point at that monument. At that time the border marker was seen by three members of the INTERFET Force and following that I approached MAJ David again. Then the INTERFET Forces immediately gained a fix on the border using their GPS and after approximately fifteen minutes I again stated to them the INTERFET troops who are on this road are within the territory of NTT. MAJ David responded by saying Sir you are not lying. I then said that three of the Motaain Security post members had been hit by fire from INTERFET, following which MAJ David apologised I then ordered the INTERFET troops who were on the road to withdraw immediately past the bridge (border), Then I return to the Motaain Post to disperse refugees who were beginning to gather around the post. Apparently they did not receive well the INTERFET action. At approximately 1435L five INTERFET tanks were seen to approach the borderline near the beach and immediately adopt a fire position. And at that stage the INTERFET Forces who were on the road led by MAJ David had already withdrawn from the border bridge. Following that I gathered together all of my members who were housed at the beach to provide them with guidance that they are forbidden to do anything without my command. At approximately 1530 TVRI workers complete with their cameras to take photos of the INTERFET APC's which at the time were present at the borderline at the edge of the beach at that stage the INTERFET APC's immediately turned right at withdraw in the direction of Batugade,East Timor. Since the beginning of the meeting between myself and MAJ David to the stage where we pointed the map photographs were constantly been taken by a reporter from the INTERFET side. This statement was made as accurately as possible and on the oath of my current position as Commander KODIM and signed in Motaain on Sunday 10th October 1999.

After some locals ran from the direction of the beach and stated to two members of Brimob that INTERFET troops had crossed the border, the two Brimob members reported this to the deputy commander. The deputy commander ordered the members to move inside the tent. After the members went into the tent, two warning shots could be heard from the main road. Not long after this a burst of shots were heard from the East /middle of the park. Because it had already been agreed upon, whenever shots were heard, all of the members of our position left their tents to look for cover. Not long after that one of the Brimob members was shot in the leg/thigh, I then gave the order to return fire. I then gave the order to withdraw whilst looking for cover. Another member was then shot and not long after this the order came from our deputy commander to cease fire. After this all members gathered together to evacuate the victims.

Montaain
16 Oct 99

Statement by Lasiman
SSGT (SERKA)/59080415

Attachment 2

AUDIOTAPED INTERVIEWS WITH PERSONNEL INVOLVED IN THE INCIDENT*

* The audiotapes may be consulted in the United Nations Secretariat, United Nations and Specialized Agencies Collection, Room L-260.

Attachment 3

MEDIA VIDEOTAPE OF THE INCIDENT*

---

* The videotape may be consulted in the United Nations Secretariat, United Nations and Specialized Agencies Collection, Room L-260.

Attachment 4

INTERFET ORDERS FOR OPENING FIRE CARD

RESTRICTED

First Edition 16 Sep 99

INTERFET – INDIVIDUAL GUIDANCE ON THE USE OF FORCE

Mission

1. Your mission is to restore peace and security in East Timor, to protect and support UNAMET in carrying out tasks, and within force capabilities, to facilitate humanitarian assistance. This card is authorised for use in East Timor only.

General

2. You are to avoid the use of force if at all possible. Force can only be used in self-defence or to achieve tasks essential to your mission. At all times, your conduct must cause the least possible concern, fear or danger to the population.

3. You are always to obey the orders of your commander. However, you always have the right to use force to protect yourself and those it is your duty to protect.

4. Individuals who give themselves up are not to be harmed. Disarm them and turn them over to your superiors.

5. Treat everyone humanely.

6. Respect private property. Do not steal. Do not take trophies.

7. Prevent and report all suspected serious breaches of the law to your superiors.

Self Defence

8. You have the right to use force (including authorised weapons as necessary) in self defence. When using force, you must only use the MINIMUM FORCE NECESSARY FOR THE PERIOD OF TIME NECESSARY.

Warning before Firing

9. Where it is necessary to fire, you are required, if possible, to give a warning in a loud clear voice saying:

BERHENTI – ANGKAT TANGAN
(STOP – HANDS UP)
(PAUSE)
BERHENTI ATAU SAYA TEMBAK
(STOP OR I'LL SHOOT)

RESTRICTED

RESTRICTED

First Edition 16 Sep 99

WARNING BEFORE FIRING

BERHENTI – ANGKAT TANGAN
(STOP – HANDS UP)
(pause)
BERHENTI ATAU SAYA TEMBAK
(STOP OR I'LL SHOOT)

Opening Fire

10. You may use the minimum force necessary, including opening fire against any individual who you believe is about to commit or is committing an act which endangers life and there is no other way to prevent such an act. For example, you may open fire against an individual who:

a. fires or aims his weapon at you or any other person;
b. attacks you or any other person with a machete or other similar implement;
c. plants, detonates, throws, or prepares to throw an explosive or incendiary device at you or any other person;
d. deliberately drives a vehicle at you or any other person;
e. damages destroys property whose damage or destruction would directly endanger your life or the life of any other person.
f. Damages or destroys property that has been declared mission essential.

NOTE: Rule 10F does not apply to UK Forces

Minimum Force

11. If you have to open fire you must:

a. fire only aimed shots, and
b. fire no more rounds than necessary, and
c. stop firing as soon as the situation permits.

RESTRICTED